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09/528,127	03/17/2000	James L. Ford	AMAZON.047A	2957

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EXAMINER

PARDO, THUY N

ART UNIT PAPER NUMBER

2175

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 16

Application Number: 09/528,127  
Filing Date: March 17, 2000  
Appellant(s): FORD ET AL.

Ronald J. Schoenbaum, Reg. No. 38,297  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed on July 25, 2002.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

No amendment after final has been filed.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims 1-33 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

**(8) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) *Prior Art of Record***

5,640,553

Schultz

6-1997

APS, "text Search and Retrieval Training Manual", U.S. Patent and Trademark Office, 1991, pp. 17-18

**(10) *Grounds of Rejection***

The following ground(s) of rejection are applicable to the appealed claims:  
Claims 3-6, 14, 15, 18, 19, and 22-33 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Schultz patent no. 5,640,553, in view of Automated Patent System (hereinafter "APS") in "Text Search and Retrieval Training Manual".

**(11) *Response to Argument***

a. Applicant argues that the references do not teach the feature of generating for the category a score which is based on at least said number of items that satisfy the query relative to a total number of items within the category. Applicant's arguments on the dependent claim 6 have been fully considered and they are deemed to be

Art Unit: 2175

persuasive. Therefore, claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The limitations of generating for the category a score which is based on at least said number of items that satisfy the query relative to a total number of items within the category, taken together with other limitations of claim 1 was not disclosed by the prior art of record.

b. Applicant argues that the references do not disclose that the presentation order of the categories be dependent upon the popularity levels of located items. As to this point, Examiner respectfully disagrees. In the specification, "the popularity level" is determined by the recent actions of users over a predetermined amount of time (see page 27, lines 22-24). Examiner believes that this feature was also taught by Schultz. Schultz teaches "the popularity level" by determining the interest level in various documents produced by the publisher, and the demographics of users retrieving such documents [see col. 2, lines 50-53].

c. Applicant argues that Schultz and APS are not properly combinable. As to this point, Examiner respectfully disagrees. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071,

Art Unit: 2175

5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Schultz and APS direct to an information retrieval system in response to a query [see both titles and abstracts]. The features of APS would enhance Schultz's system by determining category significance levels that indicate for each of the plurality of categories a level of significance of the category to the query [APS, results E1 to E6 from different classes and subclasses, page 5-18].

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

*Jean M. Cornelius*  
ART Unit 2172

*Charles Rones*

**CHARLES RONES**  
**PRIMARY EXAMINER**



Examiner Thuy Pardo  
October 2, 2002